

EXHIBIT 1

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

PLATFORM II LAWNDALE, LLC,)	No. 22 B 07668
)	Chicago, Illinois
)	1:00 p.m.
Debtor.)	February 14, 2024

TRANSCRIPT OF PROCEEDINGS BEFORE THE
HONORABLE DEBORAH L. THORNE

APPEARANCES:

For the Debtor:	Mr. Gregory Jordan;
For Greenlake Real Estate Fund:	Mr. Adam Toosely;
For the U.S. Trustee:	Ms. Gretchen Silver;
Also present:	Mr. Scott Krone;

Court Reporter:	Amy Doolin, CSR, RPR U.S. Courthouse 219 South Dearborn Room 661 Chicago, IL 60604.
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1 THE CLERK: Taking up this court's
2 1:00 o'clock set matters, Platform II Lawndale, LLC.

3 THE COURT: Good afternoon. Okay.
4 Appearances, please.

5 MR. JORDAN: Good afternoon, Your
6 Honor. Gregory Jordan on behalf of Platform II
7 Lawndale, the debtor.

8 MR. TOOSLEY: Adam Toosely. I
9 represent Greenlake Real Estate Fund.

10 I don't know if anyone is here for the
11 U.S. Trustee.

12 THE COURT: Well, they filed an
13 objection.

14 Well, they're not here. We'll proceed
15 without them, I guess. If they come in, that would
16 be fine.

17 If you expect them to be here, I can
18 take a break.

19 MR. TOOSLEY: So, Gretchen Silver, she
20 emailed Greg and I on Monday asking if we were
21 anticipating actual evidence to be presented today,
22 and I wrote back and said no, this was argument.

23 THE COURT: Yes.

24 MR. TOOSLEY: So, I don't know if that
25 meant she was still --

1 THE COURT: Well, she knew about it,
2 so...

3 MR. TOOSLEY: And, Greg, have you
4 talked to her?

5 MR. JORDAN: I have not spoken with
6 her.

7 THE COURT: Okay. Well, we'll
8 proceed.

9 MR. TOOSLEY: So, I think there are a
10 few items that are up today. The first one, we were
11 up in front of Your Honor a few weeks ago on my
12 motion to dismiss or convert. At the time, Your
13 Honor granted the motion, but because we needed to
14 get the receiver appointed, the order allowed us to
15 get relief from stay and go back to state court and
16 get that.

17 That happened yesterday. So the
18 receiver was reappointed yesterday in the foreclosure
19 suit. Now, it's going to take a couple of days for
20 that to go into effect because the judge has to sign
21 off on the bond order --

22 THE COURT: Right.

23 MR. TOOSLEY: -- and the bond has to
24 be filed for it to happen. But Mr. Samuels was
25 reappointed as the receiver yesterday in the Cook

1 County foreclosure action. So that was one of the
2 steps we were hoping to have happen --

3 THE COURT: Right.

4 MR. TOOSLEY: -- so there wouldn't be
5 a gap in time between the dismissal and this idea of
6 the funds and where they were going to go, which was
7 the other thing that was kind of continued to today.
8 And then we filed a rule to show cause, and that was
9 all set for today.

10 THE COURT: Right. I've reviewed
11 that. I reviewed the response that was filed, not by
12 Mr. Jordan, but by his client, the client's
13 principal. It's my understanding that the money is
14 back in the account.

15 MR. JORDAN: Mr. Krohn sent a screen
16 shot of the account, which I delivered to Mr. Toosely
17 and Ms. Silver, indicating the \$44,000 that was
18 placed in the account earlier this month.

19 THE COURT: Okay.

20 MR. TOOSLEY: And so, yeah, I believe
21 that part of it is mooted. I mean, we also had
22 raised the fact that there was all kinds of deadlines
23 that had been missed so that we could actually
24 adequately prepare for today's hearing. And even
25 this alleged accounting didn't come until 3:30

1 yesterday afternoon.

2 There was a response that was
3 filed 45 minutes ago, so... And in that response,
4 there is an attack of my client, there is an attack
5 of other counsel. I mean, 45 minutes before the
6 hearing, I can't necessarily prepare for all of --

7 THE COURT: Well, I think some of
8 the response of Mr. Krone was outside the motion for
9 the rule to show cause. And I skimmed it. I did go
10 to the bottom line. I saw the money had been
11 returned. So, I did not certainly spend a lot of
12 time since I had an 11 this morning and had this at
13 1:00.

14 I don't know where you want to go with
15 that. I mean, obviously, there are folks in this
16 case that are unhappy with the way it turned out. I
17 mean, that is --

18 MR. TOOSLEY: I know Mr. Soukenick
19 would like -- I mean, he's, obviously, not -- he
20 doesn't even have an appearance in this case, but
21 he's being attacked. And now there's a federal court
22 pleading that attacks him and things like that that
23 was just filed 45 minutes ago.

24 THE COURT: I would say the federal
25 court pleading is hearsay all the way through.

1 MR. TOOSLEY: Right.

2 THE COURT: So, if somebody wants
3 to take that and go somewhere with it, you know,
4 they could do that, but it's hearsay. I mean --

5 MR. TOOSLEY: Right. No, I know. I
6 was just surprised to see 45 minutes before this
7 hearing --

8 THE COURT: I don't know that Mr.
9 Jordan filed that.

10 MR. TOOSLEY: No, I don't think --

11 MR. JORDAN: I did not, Your Honor. I
12 didn't think -- other than the last paragraph or so,
13 it wasn't germane to the issues, and I don't think it
14 moved matters forward in the case. And I think the
15 last paragraph or two adequately addressed the
16 motion. That's all I'll say.

17 THE COURT: And that's my reading of
18 it as well, is that it was far beyond -- in fact, I
19 did not read all -- when I started to see where it
20 was going, it's way before this case.

21 And, Mr. Krone, I know that this is
22 a disappointing outcome for you. I know that the
23 parties have worked hard in this case. Before I
24 put this black robe on, I was involved in Chapter
25 11 cases, and believe me, they don't all turn out

1 the way we want them to. Often the thunder or the
2 white knight just doesn't come through, whether it's
3 big cases or little cases, and it's very
4 disappointing.

5 But where do we go from here?

6 MR. TOOSLEY: So, I think that we have
7 the open issue of I want to say at the end of January
8 it was about -- there was about 304,000 in the
9 account, according to my math.

10 And, Greg, you can correct me if I'm
11 wrong --

12 MR. JORDAN: Minimally. I recall it
13 being \$305,000 --

14 MR. TOOSLEY: So --

15 MR. JORDAN: -- when I did the math,
16 because I couldn't figure out how it would be that
17 there was \$295,000 in equity contributions. When
18 you add up the money in the account, there was what
19 I thought was \$305,000. And I know that the debtor
20 is cash flow positive when it's not making cash
21 collateral payments, and so the whole thing has
22 confused me. And I talked to Mr. Krone, and we
23 have not reached any kind of consensus on the
24 numbers.

25 MR. TOOSLEY: So, what was filed

1 yesterday afternoon was a claim without any detail at
2 all of who these investors are, other than just
3 generically referencing trusts, that they had put
4 \$295,000 into this thing. And it actually is
5 referenced at the top of this document as equity
6 contributions for the plan.

7 THE COURT: Right.

8 MR. TOOSLEY: But they go back to
9 September of '22. And the plan, obviously, Your
10 Honor knows, was not even done until October of '23.
11 These are actual monies that were paid -- I don't
12 know if Your Honor remembers these discussions --
13 because there was always -- there was not enough
14 money to make adequate protection payments.

15 THE COURT: Right.

16 MR. TOOSLEY: So these people made
17 contributions to be able to allow this bankruptcy
18 case to proceed. They're asking in this document,
19 from what I can understand, to overturn all of
20 those prior orders, and, therefore, have these
21 people get their money paid back, when the whole
22 reason why the bankruptcy case continued on was
23 because they needed that money to make adequate
24 protection payments. Those weren't equity
25 contributions for the plan.

1 I'm happy to put pen to paper --

2 THE COURT: Well, no, I looked at -- I
3 skimmed it. And I, frankly, wasn't sure exactly what
4 I was looking at, but --

5 MR. TOOSLEY: But I did the math. In
6 November, I was able to match up about 150,000 of
7 equity contributions that came in after the date of
8 the confirmation.

9 THE COURT: Okay. But let me stop you
10 for a minute and ask a question.

11 MR. TOOSLEY: Sure.

12 THE COURT: The cash collateral
13 orders that were entered and your client's lien
14 extends to accounts receivable, as well as accounts
15 receivable turned into cash. But if Joe Schmo
16 provides some money to help make the adequate
17 protection payment, that payment I think becomes
18 yours. But let's say there's extra money, I don't
19 know how that becomes part of your collateral.
20 That's what I'm missing.

21 MR. TOOSLEY: Right. But they didn't
22 -- they stopped -- so, there was only four adequate
23 protection payments made.

24 THE COURT: Right.

25 MR. TOOSLEY: And then Your Honor

1 ordered them, and they just didn't make them.

2 THE COURT: Okay.

3 MR. TOOSLEY: Right? So that was part
4 of the motion to dismiss.

5 So, since January of '23, they have
6 been using cash collateral without making any
7 adequate protection payments at all. So -- and
8 then they also were supposed to be escrowing taxes,
9 and we've come to learn that it's between 4 and
10 \$500,000 of taxes that are outstanding at the moment
11 as well.

12 THE COURT: Cook County taxes?

13 MR. TOOSLEY: Yes. And so we have now
14 potentially an issue of, you know, they should have
15 gone to adequate protection, which they didn't. We
16 have an issue of two attorneys are claiming that
17 they're entitled to be paid. We have the issue of
18 real estate taxes, and we have an issue of equity
19 investments either pre- or post-date of the
20 confirmation of the plan.

21 I think that when we had talked last
22 time, I had indicated that to the extent that people
23 were posting funds -- this, again, was the very first
24 time yesterday at 3:30 I learned that these were
25 equity contributions from some unknown equity people

1 that was used to cover these adequate protection
2 payments.

3 We just assumed it was Mr. Krone that
4 was covering the delta. We didn't -- it was never in
5 any reports or any other filings or anything that
6 there was any reference at all to these other
7 investors.

8 There's not any claims filed by these
9 other investors or anything. Like as far as this --
10 we're just learning for the first time, this chart of
11 just unknown trusts and things like that, that was
12 filed, like I said, at 3:30 yesterday. But they
13 allegedly started in September, were infusing cash,
14 and somehow that that should be -- if that money is
15 theirs, and they get paid back for all that time, it
16 would have the actual effect of overturning the prior
17 adequate protection payment orders because we would
18 lose it at the end, right? So...

19 THE COURT: I would like to take a
20 recess. I want Mr. Smith to call the U.S. Trustee's
21 office. I think they should be here. This is a
22 little bit more -- I would like their input.

23 So, why don't we take a five-minute
24 recess. They're in the building. They should be
25 able to --

1 MR. TOOSLEY: I can run down there,
2 too, if --

3 THE COURT: No.

4 MR. JORDAN: If you want, I can
5 call Ms. Silver right now. I have her cell phone
6 number.

7 THE COURT: Yes, let Mr. Smith call
8 her, and I'll just sit here.

9 MR. JORDAN: Okay. That's fine.

10 (Brief recess.)

11 THE CLERK: Recalling Platform II
12 Lawndale, LLC.

13 THE COURT: Well, thank you for coming
14 down, Ms. Silver.

15 MS. SILVER: There's nothing --

16 THE COURT: Well, I guess we could --
17 as you know, this case is problematic.

18 MS. SILVER: Right.

19 THE COURT: And we were just
20 hearing -- there was a rule to show cause. The money
21 has been returned that that was based upon. However,
22 yesterday, I don't know how many operating reports
23 were filed, quite a few.

24 I understand from what was said before
25 you got here that there were \$295,000 in equity

1 contributions that were made, that are held in an
2 account somewhere, but there are 400 to \$500,000 in
3 property taxes that are unpaid.

4 MS. SILVER: Post-petition?

5 MR. TOOSLEY: Not all post-petition.

6 THE COURT: Right. I know that, you
7 know, there was, obviously, an attorney who worked to
8 reduce the property taxes. And that motion to pay
9 him -- he's here today -- was up last time. And I
10 don't have an objection to paying that. I think it's
11 a benefit to the estate. However, at this point
12 there is now a receiver back in state court. This is
13 a pretty big mess.

14 We have two -- we have applications
15 for payment of attorney's fees. I don't see --
16 there's questions about the equity contributions, who
17 do those belong to. And so I thought the U.S Trustee
18 might want to provide some insight.

19 MS. SILVER: Well --

20 THE COURT: And it may be hard because
21 everything was filed in the last 24 hours.

22 MS. SILVER: Right. Gretchen Silver
23 from the U.S. Trustee's office.

24 To add to the frustration and
25 complications of this case, we're post-confirmation,

1 which --

2 THE COURT: Yes, we are.

3 MS. SILVER: -- limits my ability to
4 participate. The U.S. Trustee's participation in
5 Chapter 11 is very limited post-confirmation, and
6 none of these issues are on the post-confirmation
7 participation list.

8 THE COURT: What about the attorney's
9 fees?

10 MS. SILVER: Well, the attorney's fees
11 as they relate to pre-confirmation time periods, you
12 know, they're administrative expenses. They should
13 have been, you know, estimated and built in to the
14 confirmation hearing and part of the feasibility
15 consideration.

16 So, in that sense, even those are --
17 my participation is limited. I looked at those. I
18 didn't see anything out of the ordinary, but at the
19 time I reviewed them, honestly, I didn't know all
20 this other stuff was going on here.

21 THE COURT: None of us did. But
22 certainly I didn't.

23 Well, I guess I will hear from the
24 parties. I have --

25 MS. SILVER: Isn't there a motion from

1 one of the lenders or the secured creditor to dismiss
2 or something?

3 MR. TOOSLEY: That was granted three
4 weeks ago.

5 MS. SILVER: Ah.

6 THE COURT: Right. The receiver is
7 back in place.

8 MS. SILVER: Well, yes, I mean, my
9 ability to participate in very limited. So, although
10 I am happy to, you know, give you a personal opinion,
11 I don't think that's really meaningful.

12 THE COURT: You may lack authority,
13 but I have a lot of respect for you.

14 MR. TOOSLEY: Although it is
15 post-confirmation, the confirmation was never
16 effective because there was not a closing. So, it
17 was always -- there was language that we talked
18 about back and forth at the time, what to put in
19 that knowing that the closing wasn't an absolute
20 given as of the date of confirmation. So, although
21 we are post-confirmation, it has never become
22 effective.

23 So, that is the additional --

24 THE COURT: I believe this could be
25 used as a law school exam --

1 MR. TOOSLEY: Exactly. I think that,
2 you know, from my perspective this is a major issue
3 between the fees, the real estate taxes. We're just
4 learning about some unknown investors that we've
5 never seen before. It's never been in any budgets.
6 It's never been in any operating reports. It was not
7 in the plan about these people being paid back. And
8 we're just learning at 3:30 the day before this
9 hearing who they -- allegedly they're just trust
10 names.

11 I need some time to dig into this
12 for us to do it, and I don't want to waste the
13 court's time anymore knowing that we already have
14 a receiver back in place, and the dismissal here
15 is going to impact how quickly that foreclosure
16 can go forward. But it's just that I can't in 22
17 hours prepare for something when these were due three
18 weeks ago. Right? I mean, like, the operating
19 reports were supposed to be done by the 24th or
20 something.

21 THE COURT: Right.

22 MR. TOOSLEY: The accounting was
23 supposed to be done by February 1st, and what was
24 filed yesterday wasn't even an accounting. So,
25 you know, we haven't been able to really investigate.

1 These people, we're hearing about them for the very
2 first time yesterday at 3:30. And so for us to be
3 able to say -- and even the budgets that were done
4 every month, at the bottom where it talked about
5 equity, it said to be determined at some later
6 date.

7 We didn't know that they were going to
8 these investors -- again, not identified anywhere at
9 any point in this case -- and asking them to make up
10 that delta on the adequate protection payments.
11 Right?

12 So, it's just -- it's hard because
13 we're scrambling last-minute. And that was the whole
14 point in setting today's date, and the deadlines in
15 them, so that we wouldn't.

16 THE COURT: Believe me, I have
17 trouble. But I'm just -- what I really am
18 questioning -- and I don't know whether Mr. Jordan
19 or you or anyone else has any thoughts -- I'm not
20 really sure what the purpose of this case remaining
21 open is.

22 We wanted to get the receiver in
23 because there is nothing from the building to benefit
24 this estate at this point, is my understanding. Your
25 client is probably under water. These property

1 taxes, which we didn't know about a couple weeks
2 ago --

3 MR. TOOSLEY: The issue is that
4 we were afraid, and based on communications it's
5 a really good -- especially when they had one
6 for 44,000 -- that if we don't have -- if there's
7 any delta here as far as determining where these
8 funds go, that they will not be there by the time
9 it's passed over to the receiver. They will
10 have --

11 THE COURT: So, what claim does your
12 client have to them, though? That's another problem
13 that I don't know the answer to. I mean, I thought
14 I understood your lien. It was a lien on
15 receivables, on real estate. It wasn't on folks
16 walking in that simply wanted to be equity when your
17 client is taken out.

18 MR. TOOSLEY: Which, again, we just
19 learned about for the very first time yesterday.
20 Because we knew -- when we were here three weeks
21 ago, we were told that there was an equity infusion
22 to make up the delta post-confirmation as to the
23 closing, which we -- the math had showed it to be
24 about 150,000. And then it wasn't until we just
25 got these most recent operating reports in

1 yesterday that now all of a sudden we're hearing
2 it's \$295,000.

3 I even went through the actual
4 operating reports for those months. They're also not
5 showing on the bank accounts. They don't match up
6 with what was filed yesterday. So, I don't even -- I
7 don't know who these people are, and it doesn't match
8 up with the actual documents that were filed in this
9 case.

10 MR. JORDAN: Your Honor, can I
11 speak --

12 THE COURT: Yes.

13 MR. JORDAN: -- to those issues?

14 First off, I don't know -- you know, I
15 certainly have done my best to obtain from the debtor
16 the contact information for the various investors.
17 There is Exhibit F to the disclosure statement, a
18 list of investors who were going to be investing in
19 the fund.

20 In fact, at the disclosure statement
21 hearing -- I'm sorry, combined hearing -- there was
22 commentary with regard to Mr. Krone's percentage,
23 even though he wasn't putting money in, why was
24 getting it.

25 THE COURT: Right. I remember that.

1 MR. JORDAN: All that. So, the fact
2 that there were these investors, and the fact that I
3 believe it was a total of -- and I could be wrong,
4 but it's about \$923,000 when you add up the amount of
5 money that Greenlake was going to receive, the delta
6 between what they needed to receive and what -- the
7 loan that the debtor was going to obtain from Red
8 Oak -- which has, obviously, has not occurred or we'd
9 be in a much happier state.

10 With regard to the real estate taxes,
11 that issue has come up over and over and over again.
12 It came up at the last hearing. It came up at the
13 confirmation hearing. That is not news, the fact
14 that the debtor has substantial real estate taxes
15 that Mr. Martin got reduced, but they're still
16 substantial.

17 Again, I'm not here to tell you that
18 there are \$295,000 in the debtor's
19 debtor-in-possession account that are investors
20 funds. In fact, I would say without doing any great
21 analysis, there is virtually no way that there's
22 \$295,000 of investor funds in there because of the
23 fact that the debtor ran positive and -- cash flow
24 positive if it wasn't making its cash collateral
25 payments.

1 How much is in there? I think Mr.
2 Toosely said maybe a hundred and a half. That would
3 make sense. You know, the monies that were put in
4 after the confirmation hearing, probably \$150,000 is
5 not unreasonable. But they are in the debtor's
6 account. They're not -- there's no restrictions on
7 their use. So, I don't know. The court will have to
8 decide what to do with those.

9 With regard to all the other
10 reporting, you know, we have provided the information
11 that the debtor has provided to us and filed it when
12 we received it.

13 MR. TOOSLEY: So, that's --

14 MR. KRONE: Your Honor, may I please
15 respond?

16 THE COURT: Somebody is going to have
17 to put you on as a witness if you're going to --

18 MR. KRONE: I'm happy to be one.

19 MR. TOOSLEY: Right. There have
20 been filings by the corporate entity twice, not by
21 their represented counsel, in violation of the
22 rules.

23 THE COURT: Right.

24 MR. TOOSLEY: And so there is an
25 attorney present for the debtor.

1 THE COURT: Right. Yes, your attorney
2 is here. If he wants to put you on or if Mr. Toosley
3 wants to put you on as an adverse witness, that's
4 fine. But you -- and you don't have an attorney
5 here, and my understanding is you're not an attorney,
6 but you were a principal of the debtor.

7 MR. KRONE: Your Honor, I'm the one
8 who filed the reports, and I'm just trying to find
9 out how to file the reports accurately. And I made
10 extensive efforts to reach out to the courts and the
11 bankruptcy departments in order to know best how to
12 do that.

13 THE COURT: Well, you have an attorney
14 who could tell you how to do that.

15 MR. KRONE: I know, but there was a
16 discussion about our receipts, and I was trying to
17 reflect that problem, and he would not answer those
18 questions, which is why I --

19 THE COURT: Well, I don't really
20 want to have that discussion here in front of me.
21 That's a discussion between you and your counsel.
22 And if you have a problem with him, that's something
23 you have to take care of. I'm not taking care of
24 that.

25 MR. KRONE: My point is that all of

1 these payments line up with the people that are in
2 the --

3 THE COURT: And I don't know if you
4 didn't hear me before. I understand that you really
5 want to tell me something. You've got a lawyer here
6 who can put you on, put you under oath so he can
7 question you. But, you know, it's unwieldy --

8 MR. KRONE: I request that my attorney
9 put me on the stand.

10 MR. TOOSLEY: I mean, my only concern
11 about doing this is that, one, these were just
12 disclosed yesterday. I haven't had any chance to
13 look at them, and I'm not ready to necessarily move
14 forward. I was in a dep all morning, so I didn't
15 have a chance to really -- and then we have new stuff
16 that came forward.

17 I know that counsel said only the end
18 of it, 45 minutes before the hearing, was critical
19 to what we're talking about, but it was critical to
20 what we're talking about. So, that's the reason
21 why --

22 THE COURT: I mean, you know, at
23 this point, this is post-confirmation. We have a
24 plan that did not go effective. That's a basis to
25 dismiss this case. I don't see any reason to convert

1 it. I think that would be a terrible burden on a
2 Chapter 7 trustee. There is a receiver down the
3 street.

4 We still have an issue, unfortunately,
5 about this cash. Mr. Toosley's client is going to
6 have whatever claim he has down the street or here.
7 I don't think -- it is what it is. I was hoping to
8 enter orders on fees today before I dismiss the case,
9 not that I know where people are going to collect
10 them from, but I was going to do that just to tidy up
11 the docket.

12 MR. TOOSLEY: The request was that
13 they get paid out of these monies, which I know that
14 Your Honor mentioned last time, you know, you're not
15 sure that that's part of your --

16 THE COURT: Where the money comes from
17 -- you know, all I can say is this is what the
18 fees -- this was the fee request. I'm either
19 approving it, cutting it, denying it, making some
20 decision about it.

21 What the source of that is, if I
22 dismiss this case, is something maybe the state court
23 has to decide. I don't know. I don't know what's in
24 the state court other than the building and maybe
25 some receivables, rents, but a lot of claims against

1 it.

2 If anybody thinks I'm missing
3 something entirely, please tell me.

4 MR. TOOSLEY: I don't. I mean, like I
5 said, it's just because we have -- it's 305,000 that
6 we have four different people reaching out their
7 hands to. And, like I said, this is -- in a
8 situation with a court-appointed receiver pre-filing.

9 THE COURT: And now he's back.

10 MR. TOOSLEY: And now he's back, sort
11 of, almost, because he hasn't got his bond approved
12 yet.

13 But, like I said, it's just we --
14 we're not in a -- our client just did not want these
15 funds to disappear, is what we assume will happen as
16 soon as -- because this was, you know, theoretically
17 part of this proceeding. And, like I said, we're
18 learning now allegedly that they weren't cash
19 collateral. They were equity infusions.

20 But to Mr. Jordan's point, they
21 haven't made an adequate protection payment in a
22 year. The property was cash flow positive. So, how
23 can there only be 10,000? The difference between 305
24 and 295, like, that doesn't logical sense as to how
25 that could possibly happen. But, you know, I'm

1 learning all of this within 24 hours.

2 THE COURT: As well as I am.

3 MR. JORDAN: Your Honor --

4 THE COURT: Yes.

5 MR. JORDAN: -- one thing that I think
6 might be appropriate, each of the investors were
7 prepetition investors. So, they were in --

8 THE COURT: I thought --

9 MR. JORDAN: I'm sorry?

10 THE COURT: I thought that there were
11 investors that were coming on as you approached the
12 new financing. Maybe I was --

13 MR. JORDAN: No, they're all --
14 they're just existing investors who are putting in
15 additional funds to maintain their interest in
16 Platform.

17 THE COURT: Okay.

18 MR. JORDAN: And I would, of course,
19 argue that, you know, they had -- you know, they had
20 an interest in having, you know, the fees for Jordan
21 & Zito approved. And I would continue to have that.

22 But one of the things that I don't
23 think there is any doubt is that Mr. Martin's firm
24 has benefited the debtor, has benefited Greenlake,
25 has benefited the investors to give them a chance to

1 reorganize. And I see no reason why Mr. Martin's
2 firm should not be paid out of the funds that are
3 held.

4 Now, of course, again, I think that
5 our firm's fees should be approved as well, and I
6 think that we have provided benefit to the estate.
7 But, you know, Mr. Krone filed an objection to our
8 fee application. No one has filed an objection to
9 Mr. Martin's firm's --

10 THE COURT: Well --

11 MR. JORDAN: -- I think at the very
12 least they should get paid.

13 THE COURT: And the last time we were
14 here on Mr. Martin's fees, I approved them, but we
15 didn't have a source for payment. I don't know that
16 I'm going to ever know what the source for payment
17 should be in this, but I definitely am willing to
18 enter an order approving his fees. I mean, he
19 does --

20 MR. TOOSLEY: I think we all said that
21 last time.

22 THE COURT: And I wasn't sure why that
23 was on the docket, frankly. I don't know. Maybe
24 somebody needs to submit an order, and I will get it
25 on the docket.

1 MR. TOOSLEY: I think the whole
2 objection last time -- not objection, per se -- was
3 just the open issue.

4 THE COURT: Right.

5 MR. TOOSLEY: The request was that it
6 be paid from these funds, which is still what Mr.
7 Jordan is saying now, which I'm not sure -- if
8 there's not even like an analysis as to where the
9 funds came from we can -- how we can direct --

10 THE COURT: Well, perhaps what has to
11 be done -- I'm not really jumping up and down for joy
12 about this problem -- but I would need to see the
13 agreement -- again, the agreement with your client --
14 what was the lien. I would have to go back and look
15 at that.

16 What was the agreement with these -- I
17 mean, your client has been around since -- this money
18 has been around. There must be some documents that
19 talk about who has an interest in it or who doesn't.

20 MR. TOOSLEY: Like I said, we're just
21 learning, again for the first time, that these
22 prefiling investors were the ones who were making up
23 this delta. There's only like five adequate
24 protection payments that were made. Right?

25 THE COURT: Right.

1 MR. JORDAN: There was six, I think,
2 yeah.

3 MR. TOOSLEY: Five-and-a-half. I
4 think one was like a half of one or something.
5 Right? So, you know, this is -- literally not a
6 single document filed in this case identified that
7 that's where they came from, not even the budgets or
8 anything like that. So, this was -- this is just
9 brand-new where we're trying to -- I don't know.

10 THE COURT: I, frankly, don't
11 understand why this wasn't in the disclosure
12 statement. The disclosure statement should have
13 provided enough information so that everybody,
14 including this court, could evaluate whether or not
15 there was a feasible plan and what were the
16 constraints of that plan.

17 I mean, I always knew that there were
18 investors, but I had a different impression of when
19 they were coming in and what they were there for.
20 And now to find way post-confirmation that this is
21 here, this pot of money is here that people knew
22 about, but I didn't know about, certainly the
23 creditors of this estate that voted on this plan
24 didn't know about, I mean --

25 MR. TOOSLEY: So, we would have

1 brought this to the court's attention back at the
2 time if we knew that there was a chance that they
3 were going to claim to claw it back or that it was
4 these investors particularly as to how they were
5 coming up with the funds. Right?

6 And, you know, we -- Mr. Jordan and I
7 started negotiating an agreement as to the plan, you
8 know, almost a year ago now. Right?

9 THE COURT: I know. I just looked at
10 his time records.

11 MR. TOOSLEY: So, we had a lot of
12 conversations while we were trying to work it out.
13 And assuming that we had been able to do the plan,
14 we, obviously, wouldn't be here today for a lot of
15 different issues. There wouldn't be an issue of
16 payment of fees.

17 THE COURT: Right.

18 MR. TOOSLEY: There wouldn't be an
19 issue of any of this stuff, his would have got
20 paid --

21 THE COURT: Right.

22 MR. TOOSLEY: -- our amounts from that
23 initial closing. So, I mean, a lot of this stuff
24 probably wasn't contemplated amongst Mr. Jordan and I
25 because we were putting all of our eggs in the basket

1 that this plan was going to be consummated.

2 THE COURT: I'm quite aware of that.

3 MR. JORDAN: Your Honor, I mean, we
4 were under the understanding, an understanding that
5 debtor had the funds to -- from its investors to make
6 the make loan work.

7 And that was disclosed in the
8 disclosure statement, saying that the debtor had --
9 in Section 13, the debtor has obtained funds from
10 investors and a commitment for a post-confirmation
11 loan from a third-party lender, Red Oak Capital
12 Holdings.

13 And we listed the investors with the
14 percentages that they had. And, frankly, it just
15 turned out that the debtor didn't have all the funds,
16 and it didn't have all the -- didn't have the
17 commitment, the solid commitment, that we all thought
18 that the debtor had.

19 But we didn't -- you know, we didn't
20 brush this issue aside in the disclosure statement.
21 It was in there. It was disclosed. The individual
22 investors or trusts or entities, whatever, were
23 disclosed in Exhibit F with their percentages. So,
24 you know, I mean, we're here because it just didn't
25 fund.

1 THE COURT: But that equity -- maybe I
2 was a poor reader. My understanding was that that
3 equity was being contributed for the financing to
4 take out Greenlake.

5 MR. TOOSLEY: Correct.

6 MR. JORDAN: And it was, absolutely a
7 hundred percent true.

8 THE COURT: And it was never intended
9 to be part of the cash-collateral collateral because
10 it was new -- I mean, I guess I didn't realize it had
11 been there before.

12 MR. TOOSLEY: That's what I thought,
13 that was all new.

14 THE COURT: But be that as it may, it
15 still probably wouldn't have been your collateral. I
16 really haven't looked at your agreements recently,
17 and I will go back and look at them.

18 MR. TOOSLEY: And this was part of our
19 argument -- we had an oral argument in front of Your
20 Honor October when we objected to the use of cash
21 collateral prior to the confirmation of the plan,
22 because I said every month that they don't make an
23 adequate protection payment -- they're trying to use
24 that money to pay us, right --

25 THE COURT: Right.

1 MR. TOOSLEY: -- to bridge that gap.

2 So, this was always -- the timing
3 could have easily been brought up, like, oh, no, you
4 know, that gap -- the money we have in on our account
5 is investor funds; it's not your cash collateral. At
6 no point did they say when we objected to the use of
7 cash collateral that it wasn't our cash collateral,
8 it was the investor funds.

9 So, that would have been the perfect
10 opportunity in October when we objected to the use of
11 cash collateral to say this isn't your cash
12 collateral; this is an investor fund. At no point
13 was there ever a claim that this money in the
14 accounts wasn't our cash collateral prior to the
15 confirmation of the sale. At no point did it say,
16 this is investor funds; this is not your cash
17 collateral.

18 MR. JORDAN: I don't think at any
19 point did anyone say it was. It just didn't come up.
20 And so, I mean, to the extent that, you know, there
21 was something out there at the time -- you know,
22 around the time of the hearing -- I should probably
23 look to see what numbers have changed from the
24 initial report I filed. But there was one that was
25 filed yesterday.

1 And I believe there were -- you know,
2 there should have been \$150,000 in the --
3 approximately 150 -- the report I just pulled up,
4 which I think is an older one, one fifty-seven four
5 forty-two -- in monies in the debtor account. I
6 don't think anybody thought that the debtor was
7 making that type of profit during 2023.

8 So, Greenlake -- I mean, Greenlake and
9 I, we all had a sense that there was monies there.
10 However, I thought that there was more monies that
11 were being held outside of the debtor-in-possession
12 account to fund the Greenlake amount under the plan,
13 and it turned out there wasn't.

14 MR. TOOSLEY: It would have been nice
15 at some point in the budget to show -- I mean, there
16 was no real estate taxes being paid. There was no
17 adequate protection. So there wouldn't have been any
18 equity.

19 The chart that was filed yesterday
20 goes all the way back to September '22, you know,
21 right after this bankruptcy was filed. And so at no
22 point had it been disclosed in anything I have ever
23 seen that all of this money was coming in from these
24 individuals or particular investors during the course
25 of this case.

1 Now, if it's true that this was
2 happening -- and maybe there's an issue of whether or
3 not our loan documents and our security interest
4 covers all of it -- but we've been kind of put on the
5 spot the day before the hearing to take this position
6 without actually having even -- I was always under
7 the impression, like Your Honor said, that there was
8 going to be a cash infusion post-confirmation to
9 cover a delta to allow for the closing, and not for
10 these pre-confirmation amounts that were --

11 Mr. Jordan I think is right, there was
12 a disclosure that the investors were going to need to
13 come up with some funds, but it didn't show -- unless
14 I'm misreading the --

15 THE COURT: My recollection -- and we
16 probably shouldn't all be testifying about
17 recollection -- but that Mr. Krone was working to get
18 new investors in and was protective of those
19 investors. I remember that as being a very -- you
20 know, that that was part of -- you want to call it
21 the delta -- that was the delta that was being raised
22 to get to the effective date.

23 And apparently that happened, but
24 the effective date hasn't happened. I never viewed
25 it as that was going to be money that would go to

1 Greenlake, except for in the sense that Red Oak was
2 going to come back and was going to be able to take
3 you out. So that was kind of the flow of it.

4 What do we do now with this case that
5 is in shambles, where there is already a receiver
6 down the street, who will presumably get his bond,
7 start to work on liquidating the property through the
8 foreclosure, whatever --

9 MR. TOOSLEY: The foreclosure order
10 entered yesterday said that we cannot move on Count I
11 until the dismissal. So, the receiver is in place --

12 THE COURT: Until the --

13 MR. TOOSLEY: -- so there's no moving
14 -- like, I can't set the foreclosure sale or anything
15 until that happens.

16 THE COURT: I mean, I --

17 MR. TOOSLEY: So, like, I just want to
18 be --

19 THE COURT: No, that's good.

20 MR. TOOSLEY: -- transparent.

21 THE COURT: The other issues that are
22 before me today, I am going to grant an order for Mr.
23 Martin's fees. I think that --

24 And, frankly, although there is an
25 objection to Mr. Jordan's fees, I looked through

1 them. Mr. Jordan has the most reasonable billing
2 rate in Chicago, for the most part. Although he's
3 not pushing work down to an associate at a lower
4 billing rate, he's very efficient. I was about to
5 criticize him on doing his own fee application, but
6 he spent an hour -- 1.7 hours, on it. And I can tell
7 you, I've done a lot of fee applications. They take
8 a lot longer than that. So he's an expert.

9 And the fact that it's not a happy
10 outcome in the case doesn't mean he didn't do the
11 work. It is what it is.

12 MR. TOOSLEY: We didn't object to his
13 fees. We were just thinking about where --

14 THE COURT: I know. Mr. Krone
15 objected his lawyer's fees.

16 If you think that Mr. Jordan did
17 something wrong in this case, that's not in front of
18 me. You can bring that in your own action, if you
19 want to file an action for malpractice or whatever.
20 But what I've seen, he's entitled to his fees. Now,
21 how is he going to get paid his fees? I don't know.

22 MR. KRONE: Your Honor, there's
23 personally \$23,000 that shows a previous balance.
24 There's no invoicing to support \$23,000 --

25 THE COURT: That was for pre-petition,

1 I think.

2 MR. KRONE: No, it was basically we
3 hired him on the 11th. His billing started on the
4 13th. And we paid him \$33,000 as an earnest --

5 THE COURT: Retainer.

6 MR. KRONE: -- as a deposit, which
7 means that there's \$23,000 that -- there was \$56,000
8 billed in two days? We don't have any evidence of
9 any invoicing for that amount of money or \$23,000.
10 All of a sudden it just appears, previous balance,
11 \$23,000.

12 MR. JORDAN: I didn't --

13 MR. KRONE: He never accounted for
14 it.

15 MR. JORDAN: I don't even know what
16 he's talking about.

17 THE COURT: Okay. This is what I'm
18 going to do because at this point this is not
19 efficient.

20 Mr. Krone and Mr. Jordan, I want you
21 to make sure that everybody is on the same page for
22 whatever -- as I understand, a retainer was provided.
23 And I thought Mr. Jordan was -- I could be completely
24 wrong -- was applying a pre-petition invoice to that
25 before the case was filed. If that's not right, then

1 the accounting on the fees should definitely make
2 sense. And if it's not making sense to you, maybe
3 it's not making sense to me.

4 MR. JORDAN: It was, Your Honor. It
5 was applied right before the petition was filed.

6 MR. KRONE: We don't have any --

7 MR. JORDAN: Something like \$6,000, I
8 don't --

9 MR. KRONE: Then how is it \$56,000
10 since --

11 THE COURT: Mr. Jordan.

12 MR. JORDAN: Yes, ma'am.

13 THE COURT: Right now it doesn't seem
14 like you and Mr. Krone are like best buddies. But
15 you need to sit down. And before I enter this order,
16 sit down and explain to him -- show him your invoices
17 that are pre-petition so that he understands the
18 accounting, and then I can enter an order that makes
19 sense.

20 If there is not an invoice that covers
21 that pre-petition amount that you set off -- that's
22 often what happens. Somebody gets an invoice -- the
23 lawyers are going to make sure that they're paid
24 their pre-petition amount before they start the
25 post-petition work. But it certainly should make

1 sense to everybody. And so I want the numbers to
2 make sense. If they don't --

3 MR. KRONE: He's represented \$6,000,
4 but yet 33 was paid, and then there was a previous
5 balance of 23.

6 THE COURT: Okay.

7 MR. KRONE: That's a huge gap.

8 THE COURT: Okay. I agree. Sit down
9 and figure that part out. And then if you need me to
10 make a decision on that, I will. But I don't want to
11 make it based on people yelling numbers out and --

12 MR. KRONE: -- show you what I'm --

13 THE COURT: Well --

14 MS. SILVER: The other thing is
15 because fees are one of the things that a bankruptcy
16 court does have continuing jurisdiction over the case
17 after the dismissal, it could be --

18 THE COURT: So, that's right, it's
19 clear that I can do that.

20 MS. SILVER: Mr. Martin's fees --

21 THE COURT: Right.

22 MS. SILVER: -- and send the rest of
23 it back to state court.

24 THE COURT: I mean, that works for me.
25 But I do want Mr. Jordan and Mr. Krone to sit down

1 and see if this makes sense. If it doesn't, then
2 I'll have a separate hearing or you can submit it on
3 papers, and we can figure this out.

4 I have a lot of respect for both of
5 you. I know you tried hard in this case. I know Mr.
6 Jordan has worked hard. I know it's not the outcome,
7 but I think -- why don't you guys take a crack at
8 trying to do that, and then I'm happy to get
9 involved, and I'll enter an order accordingly. Ms.
10 Silver is absolutely right, I have jurisdiction on
11 that.

12 Mr. Martin, you'll have your fees
13 approved today so you don't have to come see me
14 anymore.

15 MR. MARTIN: Thank you.

16 THE COURT: I just need the order for
17 that. And then I can enter an order dismissing the
18 case so that the receiver can go ahead. I know that
19 there is a lot of other issues that we could spend a
20 long time trying to figure out. I'm going to defer
21 to --

22 Who is the state court judge?

23 MR. TOOSLEY: Judge Marian --

24 MR. JORDAN: Perkins.

25 MR. TOOSLEY: Judge Perkins.

1 THE COURT: I'm sure she's delighted
2 to have this issue in front of her.

3 MR. TOOSLEY: Well, I guess if the
4 money is gone, then the issue won't be in front of
5 her.

6 THE COURT: Yeah, I don't know. I
7 mean, I guess -- you know, in retrospect, if the
8 property taxes weren't being paid, I wish somebody
9 had shouted that loudly to me, because I would
10 have -- you've got to pay them. And if there's not
11 enough money there, then why was this, you know --

12 MR. TOOSLEY: From our perspective at
13 that point, we were getting paid our adequate
14 protection, so we weren't going to be fighting over
15 the months every month because --

16 THE COURT: Looking back in the
17 rearview mirror, it's not all great.

18 MR. TOOSLEY: -- it was showing on the
19 reports every month that they were setting it aside,
20 so I wasn't --

21 THE COURT: Yes.

22 MR. TOOSLEY: -- double-checking to
23 see if the --

24 THE COURT: Well, let's do this. I am
25 going to enter the order today dismissing the case.

1 I will set -- let's set a hearing out in two weeks
2 over the fees.

3 MR. JORDAN: Can we do that in three
4 weeks, Your Honor? I'm going to be in Baltimore on
5 trial for a week starting next Tuesday.

6 THE COURT: I just want to make sure
7 that you and Mr. Krone have the time to --

8 MR. JORDAN: That's why I said three
9 weeks, because I don't want to rush it when I'm
10 coming back.

11 MR. KRONE: The 6th, Your Honor?

12 THE CLERK: Yes, March 6th.

13 THE COURT: March 6th.

14 MR. KRONE: Are we going to do that at
15 1:00 o'clock again?

16 THE COURT: I think that makes sense.
17 I hate to -- I have set a lot of things over to the
18 6th today.

19 (Discussion with the court.)

20 THE COURT: I mean, I can do 11:00
21 o'clock, too.

22 MR. KRONE: I am fine with either
23 time.

24 THE COURT: Yes, 11:00 is fine. Why
25 don't we do it at 11:00, with the caveat that you

1 might have to wait a couple minutes.

2 MR. TOOSLEY: So, the order from today
3 is going to say that we're dismissing the bankruptcy
4 case --

5 THE COURT: And I'm retaining
6 jurisdiction over the fees. We'll continue those to
7 the 6th.

8 MR. MARTIN: And, Your Honor -- this
9 is David Martin -- are you looking for an order from
10 me regarding our fees --

11 THE COURT: Yes, from either you or
12 Mr. Jordan.

13 MR. TOOSLEY: There was a proposed
14 order, I think, attached to your application.

15 THE COURT: Let me see.

16 MR. MARTIN: Yeah, I thought there
17 was.

18 MR. TOOSLEY: I don't think they
19 accept any motions anymore without a proposed order.

20 THE COURT: Well, we don't, but we
21 do.

22 MR. TOOSLEY: Right.

23 THE COURT: They should all be in this
24 fillable form so that I --

25 MR. MARTIN: It was filed I think back

1 in December, right?

2 MR. JORDAN: Right.

3 THE COURT: If you can find it. We'll
4 get the order on the docket.

5 MR. TOOSLEY: And then the rule to
6 show cause is just denied as moot or...

7 THE COURT: Do you want to just
8 withdraw it?

9 MR. TOOSLEY: Yeah, it's probably
10 easier to just withdraw it.

11 MR. KRONE: I'll withdraw my response.

12 THE COURT: I can also mark it as
13 moot. Maybe that makes it easier.

14 MR. TOOSLEY: Either way is fine.

15 THE COURT: Hearing concluded, I'll do
16 that.

17 MR. TOOSLEY: Perfect.

18 THE CLERK: So, Mr. Jordan's fees go
19 over to 3/6 at 11:00?

20 THE COURT: Right.

21 MS. SILVER: Your Honor, the U.S.
22 Trustee had no issue with his fee application.

23 THE COURT: So, you don't have to -- I
24 appreciate you coming this afternoon.

25 MR. TOOSLEY: So, do you want Mr.

1 Jordan to draft the other order on the dismissal
2 or...

3 THE COURT: I think that I have a
4 motion to dismiss here. Let me just look at the
5 order. I want to make sure the state court can
6 follow it.

7 MR. TOOSLEY: We changed it around
8 last time --

9 THE COURT: Right.

10 Okay. So I have concluded that --
11 yes, I think I can use this order. Well, this is the
12 question. And this order says, upon the
13 re-appointment of the receiver, all funds held in the
14 debtor's bank account should be turned over to the
15 receiver.

16 MR. TOOSLEY: Which is -- that was
17 part of the reason why we were continuing it --

18 THE COURT: Right.

19 What I don't know is where the 150,000
20 -- I don't know that that's part of the -- your
21 client's collateral. I haven't made a finding on
22 that. I have my doubts.

23 MR. JORDAN: Your Honor, I think even
24 if it's not a part of their collateral, it's just a
25 receiver holding it. I don't know who else is going

1 to hold it because --

2 THE COURT: That may not really make
3 sense. I mean, you would have every right to argue
4 it's not yours -- or it's not his when -- you know,
5 before the state court. So, that makes it cleaner
6 for the state court.

7 So, I'm just going back to this order
8 to see if it will work. I will take out the
9 shortened notice, since I think we've gone way beyond
10 that.

11 The motion is granted. The above
12 captioned bankruptcy is hereby -- it's got a lot of
13 herebys, and we don't really need those -- is
14 dismissed with prejudice, but -- well, we had this,
15 that it would stay active until the time the
16 court-appointed receiver is re-appointed. I suppose
17 we can do that if he's not until his bond is there.
18 I mean, I -- so that's back.

19 Then the debtor is precluded from
20 spending the funds on hand unless otherwise approved
21 as part of the cash collateral. You can take that
22 out because we're not going to deal with cash
23 collateral anymore.

24 State that the bankruptcy court
25 retains jurisdiction on the fees. I think that's

1 all we need here. And that should be easy enough.

2 I want to make sure -- state courts are very
3 reluctant --

4 MR. TOOSLEY: Extremely.

5 And I want to apologize to Mr. Martin.
6 It's probably partially my fault, along with Mr.
7 Jordan, that we didn't conclude the hearing last
8 time, and you're having to hear it again. So, I
9 should have --

10 MR. MARTIN: Thank you.

11 THE COURT: So, the only jurisdiction
12 I'm retaining is Mr. Jordan's fees.

13 MR. TOOSLEY: Perfect.

14 THE COURT: Okay. I think that does
15 it.

16 (Which were all the proceedings had in
17 the above-entitled cause, February 14,
18 2024, 1:00 p.m.)

19 I, AMY B. DOOLIN, CSR, RPR, DO HEREBY CERTIFY
20 THAT THE FOREGOING IS A TRUE AND ACCURATE
21 TRANSCRIPT OF PROCEEDINGS HAD IN THE ABOVE-
22 ENTITLED CAUSE. /S/
23
24
25